



PC AGENDA: 03/26/03

ITEM: 4.a.

Memorandum

TO: PLANNING COMMISSION

FROM: Stephen M. Haase

SUBJECT: SEE BELOW

DATE: March 19, 2003

COUNCIL DISTRICT: 2

**SUBJECT: ORDER TO SHOW CAUSE FOR PLANNED DEVELOPMENT PERMIT
FILE NO. PD 98-016, PDA 98-016-01, PDA 98-016-02, PDA 98-016-03, PDA 98-016-04, PD
99-022 & PD 99-030 LOCATED AT THE EASTERLY OF SKYWAY DRIVE,
EASTERLY OF MONTEREY HIGHWAY.**

BACKGROUND

Land Use Approvals

In May of 1994, the City Council approved Planned Development Rezoning File No. PDC 89-051 to allow the construction of school facilities for 900 middle and high school students, a 1200 seat church facility (which would also accommodate a 300 student elementary school) and associated site improvements and facilities. The site, or portions thereof, was rezoned in 1999 and again in 2001 to allow additions and modifications to the site. Planned Development Permits and Permit Amendments pursuant to these Zonings approved the details of architecture, site design, landscaping and other mitigations and improvements necessary to implement the project. Following is a brief summary of the Zoning and Permits approved for the site:

- ⚡ PDC89-051. Approved May 17, 1994, this is the original Planned Development Zoning as described above.
- ⚡ PD98-016. Approved on July 10, 1998, this Permit served as a master permit implementing the above Zoning, including the church, middle and high school for up to 1200 students and associated facilities.

- ✍ PD99-022. Approved on June 11, 1999, this Planned Development Permit allowed the construction of a pump house (with access from Diamond Heights Drive) needed to provide adequate fire flow to the site.
- ✍ PDA98-016-02. Approved on July 27, 1999, this Permit Amendment reconfigured the building footprint of the church and provided architecture for the church.
- ✍ PDA98-16-03. Approved on September 24, 1999, this Permit Amendment provided architecture for the football stadium.
- ✍ PD99-030. Approved on October 14, 1999, this Planned Development Permit provided the details for construction of the tennis courts and for the reoriented football field.
- ✍ PDA98-16-04. Approved on June 23, 2000, the Permit Amendment allowed the addition of baseball bleachers and other modifications to the approved baseball field.
- ✍ PDC00-065. Approved on June 19, 2001, this Planned Development Rezoning originally proposed vehicular access to the school site from Diamond Heights Drive, deletion of a requirement in the original PD Zoning for the operation of two school busses to reduce vehicular trips to the site, the addition of 200 students to the middle and high schools and the addition of new parking lots. As approved by the City Council, the Zoning allowed only the new parking lots and required implementation of a trip reduction program. The requested increase in students and the access via Diamond Heights Drive were not approved.

Following the approval of each of the above Permits, the applicant signed a notarized acceptance form agreeing to comply with all of the conditions of the permit. As construction of the Valley Christian School proceeded and the school began operation, planning and public works staff identified specific permit requirements that had not been implemented. In December of 2001, staff transmitted a list of these outstanding improvements to the School via email (see attached). Subsequent discussions regarding the permit requirements did not resolve the compliance issues; consequently, on December 19, 2002, the Director of Planning issued a Notice of Noncompliance to Valley Christian School providing a deadline of January 16, 2003 for bringing the site into conformance with the approved permits. On February 28, 2003, the Director issued a second Notice of Noncompliance (see attached) to both Valley Christian School and an additional property owner, South Valley Christian Church, providing a deadline of March 10, 2003 for complying with the prior permits.

The South Valley Christian Church has not constructed the church facility approved for the site.

Pending Land Use Approvals

Following are the pending land use applications for the subject site:

- ✍ PD02-057. This application proposes to implement the additional parking lots approved through PDC 00-065. The PD Zoning required that the School implement a Trip Reduction Program and achieve a 15% reduction in peak hour vehicle trips prior to issuance of a PD Permit. The School has implemented the required trip reduction program but has not yet provided a monitoring report verifying a 15% reduction in peak hour vehicle trips.
- ✍ PDC02-063. This rezoning application proposes the addition of stadium lights to the football field. The approved PD Zoning currently on the site specifically disallows such lights. This zoning application is anticipated be heard by the Planning Commission and City Council later this Spring, following resolution of the outstanding compliance issues.

Correspondence

Correspondence received regarding this compliance issue includes a memorandum from Chuck Reed dated January 10, 2003 addressing compliance issues related to Diamond Heights Drive; a letter dated January 16, 2003 from Claude Fletcher, Chancellor of Valley Christian Schools, responding to each of the issues raised in the original Notice of Noncompliance; a letter dated March 10, 2003 from Kirsten M. Powell, representing South Valley Christian Church and a letter dated March 6 from Kent Mitchell, representing Mario Ambra (see attached).

ANALYSIS

Following is a brief analysis of the outstanding permit requirements and recommendations for bringing the site into conformance with the relevant permits.

1. Improvements to Diamond Heights Drive.

Diamond Heights Drive extends in a southerly direction from Senter Road along the easterly boundary of the project site until it connects to a driveway on the school site. The roadway exists as a public street to a point just southerly of the existing entrance to the tennis court parking lot (see attached assessor parcel map and aerial photograph). Beyond this point, the road extends as a private drive on the Ambra property (with an access easement benefiting the Valley Christian property) to the point where it enters the Valley Christian site.

temporary pavement on Diamond Heights Drive to the tennis court parking lot and further specified that if Diamond Height Drive were not vacated within two years of approval of the permit, the applicant would need to improve a 30-foot half street along the Diamond Heights frontage to the satisfaction of the Director of Public Works.

Compliance Status

Over two years have elapsed since the Permit was approved. Diamond Heights Drive has not been improved and the public street has not been vacated. The roadway is now in such poor condition that the City's Environmental Services Department inspection staff recently contacted the Department of Public Works with concern that storm water running off the hill and across the badly-eroded street surface was resulting in impacts on storm water quality (see attached photograph). In response, the Department of Public Works has cashed a bond posted by the applicant to ensure the construction of a portion of the public street improvements (between Senter Road and the pump house driveway) and has requested that the Department of Transportation proceed to construct the improvements (see attached memorandum from Department of Public Works Director Katy Allen to Department of Transportation Director Jim Helmer, dated March 12, 2003). This will resolve the issue for the public street segment between Senter Road and the pump house driveway; however, the condition of the public street between the pump house driveway and the tennis court driveway remains a concern, as does the private segment of the roadway extending uphill beyond the tennis courts. The Fire Department has indicated that the street is in such poor condition that they would not attempt to use it for emergency access to the Valley Christian School site. The approved Zoning and Permit do not specifically require improvement or maintenance of the private portion of Diamond Heights Drive; however, without adequate maintenance of the roadway, the applicant is not in conformance with the Zoning and Permit requirement to provide emergency access between the site and Senter Road via Diamond Heights Drive.

Recommended Action

Staff recommends that the Planning Commission revoke and reissue Planned Development Permit File No. PD99-030 with the following new conditions:

Schedule for Public Street Improvements to Diamond Heights Drive. Within 90 days of approval of this revised Permit, the applicant shall complete the permanent improvements required in Condition No. 14(a) for the segment of Diamond Heights Drive between the pump house driveway and the southern terminus of the public street to the satisfaction of

require landscaping and some are located immediately adjacent to residential properties. Although it may be possible for staff to approve storage containers in some locations on the site, none are currently permitted.

Recommended Action

Staff recommends that the Planning Commission revoke and reissue Planned Development Permit File Nos. PD98-016 (as amended) and PD99-030 and include the following new condition in the reissued Permits:

Storage Containers. Within 90 days of approval of the revised Permit, the applicant shall remove all storage containers from the site except those for which the applicant has obtained all necessary permits to the satisfaction of the Director of Planning.

3. Fencing, Gate and Pedestrian Access

Zoning and Permit Requirements

The 1999 PD Zoning to expand the site for the tennis courts and pump house (File No. PDC 99-010) included General Development Plan conditions that specified that emergency access is required from Senter Road to the Valley Christian School Campus via Diamond Heights Drive, that vehicular access to the tennis courts should be from Senter Road to Diamond Heights Drive and that there should be no vehicular access between the tennis courts and the Valley Christian campus via Diamond Heights Drive. The PD Permit plans (File No. PD 99-030) reflect these same conditions. These plans also show a fence along the westerly edge of the property adjacent to Diamond Heights Drive, with gates at the driveway entrances to the pump house, the tennis courts and the main campus. The Permit includes a condition requiring that these gates be locked during football games, tennis games and other events as necessary to prevent access to the primary campus from Diamond Heights Drive. The Zoning and Permit plans show a pedestrian pathway from the primary campus to the tennis courts.

The City Council has approved a Planned Development Zoning to allow the construction of single-family houses on the adjacent *Ambra property* through which Diamond Heights Drive runs. The provisions of the permits for the school campus were intended to ensure emergency access to the campus from Senter Road, but also to protect the future residential neighborhood by prohibiting non-emergency vehicular access to the main campus from Diamond Heights Drive, by providing an appropriate pedestrian path for students to access

and the tennis courts. The neighboring property owner has installed an unpermitted gate across the private portion of Diamond Heights Drive to prevent vehicles from gaining access to the campus via this access. Code Enforcement staff is dealing with this compliance issue.

Recommended Action

Staff recommends that the Planning Commission revoke and reissue Planned Development Permit File No. PD 99-030 and include the following new condition in the reissued Permit:

Fence, Gate and Pedestrian Pathway Compliance Schedule. Within 90 days of approval of the reissued Permit, the applicant shall implement fencing with gates, an "emergency access only" gate and a pedestrian pathway between the main campus and the tennis courts in conformance with the requirements of this Permit to the satisfaction of the Director of Planning.

4. **Landscaping**

Planned Development Permit File Nos. PD98-016 (as amended), PD99-022 and PD99-030 include landscape plans that provide for extensive site landscaping. This landscaping was identified in the Environmental Impact Report and subsequent environmental analysis as mitigation for the potentially significant visual impacts associated with the site grading and construction of retaining walls. Landscaping shown on the approved plans has not been installed in many areas of the project site.

Recommended Action

Staff recommends that the Commission revoke and reissue Planned Development Permits File Nos. PD 98-016 (as amended), PD 99-022 and PD99-030 and include the following new condition in the reissued Permits:

Schedule for Installation of Landscaping. Within 90 days of approval of this reissued Permit, the applicant shall install all landscaping and irrigation in conformance with the approved plans to the satisfaction of the Director of Planning.

5. **Trail**

During the original rezoning process, neighbors of the project site requested that an

possibility of a link to the Park, it may be appropriate to eliminate the requirement for maintenance of the trail.

Recommended Action

Staff recommends that the Commission revoke and reissue Planned Development Permit File No. PD98-016 (as amended) and include the following condition in the reissued Permit:

Schedule for Trail Implementation. Within 90 days of approval of this reissued Permit, the applicant shall make improvements to widen and smooth the surface of the existing trail to ensure that it remains accessible to neighborhood residents to the satisfaction of the Director of Planning.

Conclusion

A number of the outstanding compliance issues for this project have been brought to the applicant's attention repeatedly over a period of months. These efforts have not resulted in compliance. The relevant Zonings and Permits for this site were reviewed and approved by the Planning Commission, the City Council and the Director of Planning based on the combination of the site plan and improvements proposed by the applicant and the conditions prepared by staff. The applicant has had ample opportunity through the land use approval process to file an appeal of the requirements of the approved Permits, or to refuse to accept them, and has had ample time since these compliance issues were first raised to seek to file applications to amend the requirements. At this time, staff believes that the applicant should bring the site into compliance with the approved PD Zonings and associated Permits in conformance with the schedule outlined in the proposed new permit conditions.

RECOMMENDATION

Staff recommends that the Planning Commission revoke and reissue the following Planned Development Permits File Nos. PD98-016 (as amended), PD99-022 and PD99-030 with the additional conditions identified above and included in the attached Draft Permits.